

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3121
Administrative Law Judge Division
October 16, 2003

R E S O L U T I O N

RESOLUTION ALJ 176-3121. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

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Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on October 16, 2003, the following Commissioners voting favorably thereon:

/s/ WILLIAM AHERN

WILLIAM AHERN
Executive Director

MICHAEL R. PEEVEY
President

CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3121 (10/16/03)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A03-09-045 SIERRA PACIFIC POWER COMPANY, (U 903-E), for an order authorizing the sale of four Hydroelectric Generation Plants on the Truckee River to the Truckee Meadows Water Authority.	Ratesetting	Ratesetting	NO
A03-10-001 PARAMOUNT INTERNATIONAL TELECOMMUNICATIONS, INC., for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A03-10-002 TALK VISUAL CORPORATION, for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A03-10-006 SOUTHERN CALIFORNIA WATER COMPANY, (U 133-W), for an Order authorizing it to increase rates charged for water service by \$15,377,000 or 19.34% in 2004; by \$6,642,000 or 6.98% in 2005; and by \$6,629,700 or 6.51% in 2006 in its Metropolitan Service Area.	Ratesetting	Ratesetting	YES
A03-10-007 TELE CIRCUIT NETWORK CORPORATION, for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A03-10-008 SAIGON V.I.P. TRANSPORTATION, LLC, for passenger stage authority under Section 1031, et seq., of the California Public Utilities Code, to transport passengers and baggage express, on an on-call, county-to-county pricing basis, between the counties of San Diego, Orange, Los Angeles, Santa Clara, San Francisco and Alameda, on the one hand, and to establish door-to-door shuttle service between points in Los Angeles/Long Beach Harbors and certain "shopping malls" described in the body of the application, on the other hand; and to establish a zone of rate freedom under Section 454.2, et seq., of the PU Code.	Ratesetting	Ratesetting	NO
A03-10-009 PACIFIC GAS AND ELECTRIC COMPANY, for authorization under Public Utilities Code Section 851 to allow installation of a swimming pool within Pacific Gas and Electric Company's easement area.	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3121 (10/16/03)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A03-10-017 CALIFORNIA WATER SERVICE COMPANY, (U 60-W), for authorization to increase rates charged for water service in the SOUTH SAN FRANCISCO district by \$1,084,700 or 10.83%, in 2004, by \$386,100 or 3.5% in 2005, by \$193,500 or 1.7% in 2006, and \$200,300 or 1.7% in 2007.	Ratesetting	Ratesetting	YES
A03-10-018 CALIFORNIA WATER SERVICE COMPANY, (U 60-W), for authorization to increase rates charged for water service in the STOCKTON district by \$2,906,200 or 15.85%, in 2004, by \$1,753,600 or 8.25% in 2005, by \$1,714,700 or 7.46% in 2006, and \$1,729,700 or 7.00% in 2007.	Ratesetting	Ratesetting	YES
A03-10-019 CALIFORNIA WATER SERVICE COMPANY, (U 60-W), for authorization to increase rates charged for water service in the MID-PENINSULA district by \$2,981,500 or 15.70%, in 2004, by \$1,041,100 or 4.74% in 2005, by \$1,031,000 or 4.48% in 2006, and \$1,043,700 or 4.34% in 2007.	Ratesetting	Ratesetting	YES
A03-10-020 CALIFORNIA WATER SERVICE COMPANY, Application of California Water Service Company (U 60-W), for authorization to increase rates charged for water service in the SALINAS district by \$5,467,400 or 50.78%, in 2004, by \$1,665,900 or 10.26% in 2005, by \$1,412,400 or 7.89% in 2006, and by \$1,425,700 or 7.38% in 2007.	Ratesetting	Ratesetting	YES
A03-10-021 CALIFORNIA WATER SERVICE COMPANY, (U 60-W), for authorization to increase rates charged for water service in the BAKERSFIELD district by \$11,343,800 or 30.90%, in 2004, by \$1,521,600 or 3.17% in 2005, by \$826,400 or 1.67% in 2006, and \$867,000 or 1.72% in 2007.	Ratesetting	Ratesetting	YES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A03-10-022 SOUTHERN CALIFORNIA EDISON COMPANY, (U 338-E), for approval of its 2004 Revenue Requirement and related estimates under the Energy Resource Recovery Account (ERRA); and for a Commission Finding that its Procurement-related and other Operations were reasonable for the Record Period September 1, 2001 through June 30, 2003.	Ratesetting	Ratesetting	YES
A03-10-024 ALISHAHI, FARIBORZ, dba ORANGE COUNTY CRUISER, RAD, SIMIN, dba ORANGE COUNTY CRUISER, for approval of the transfer by sale of the operating authority held by seller in passenger stage corporation certificate issue from seller to buyer pursuant to the provisions of Public Utilities Code Section 851 et seq.	Ratesetting	Ratesetting	NO
A03-10-025 PACIFIC TELECOM SERVICES, LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A03-10-026 MG LLC, a Delaware Limited Liability Company, which qualified to do business in California as MBDG LLC, will do business in California as SearsConnect for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A03-10-027 INTEGRATED TELECOMMUNICATIONS, INC., for registration an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A03-10-028 CABLE & WIRELESS AMERICAS OPERATIONS, INC., for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A03-10-029 MALICEVIC, ZLATKO, dba ZACK'S AIRPORT SHUTTLE, for authority to operate a passenger stage corporation between points in San Francisco, Alameda, Contra Costa, San Jose, Solano, Marin and San Mateo counties and the San Francisco, Oakland and San Jose International airports and to establish a zone of rate freedom		Ratesetting	NO
A03-10-031 CALIFORNIA WATER SERVICE COMPANY, (U 60-W), for authorization to increase rates charged for water service in the SALINAS district excluding the service areas of the Country Meadows Mutual Water System and the Indian Springs Mutual Water System by \$5,440,500 or 51.03%, in 2004, by \$1,611,900 or 10.01% in 2005, by \$1,360,900 or 7.68% in 2006, and \$1,373,900 or 7.20% in 2007.	Ratesetting	Ratesetting	YES
A03-10-032 WILTEL COMMUNICATIONS, LLC, (U 6146-C), for Approval of an Indirect Transfer of Control and Request for Expedited Ex Parte Relief.	Ratesetting	Ratesetting	NO
A03-10-033 WILTEL COMMUNICATIONS, LLC, (U 6146-C), for Approval of a Transfer of Control and Request for Expedited Ex Parte Relief.	Ratesetting	Ratesetting	NO
A03-10-034 WILTEL LOCAL NETWORK, LLC, (U 6316-C), for Approval of an Indirect Transfer of Control and Request for Expedited Ex Parte Relief.	Ratesetting	Ratesetting	NO
A03-10-035 WILTEL LOCAL EXCHANGE, LLC, (U 6316-C), for Approval of a Transfer of Control and Request for Expedited Ex Parte Relief.	Ratesetting	Ratesetting	NO